

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4675 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1 to 5 No

YUNUS HASAM KATIRA

Versus

STATE OF GUJARAT

Appearance:

MS SUBHADRA G PATEL for Petitioner
Mr. Nigam Shukla, learned Asst.G.P. for the respondents.

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 05/11/96

ORAL JUDGMENT :

1. This Special Civil Application is directed against the detention order dated 30-4-96 passed by the District Magistrate, Jamnagar whereby the petitioner has been detained under the provisions of the Gujarat Prevention of Anti Social Activities Act, 1985 (hereinafter referred to as 'the Act'). The detention order was executed on 1-5-96 and since then the

petitioner is under detention lodged at Ahmedabad Central Prison, Ahmedabad.

2. The present Special Civil Application was filed in this Court on 4-7-96 and on 5-7-96 Rule returnable on 12-8-96 was issued. So far neither any reply has been filed on behalf of the respondents nor the affidavit of the detaining authority has been filed.

3. The grounds enclosed with the detention order show that 4 criminal cases under the Bombay Prohibition Act were registered against the petitioner. Besides these, the detaining authority has taken into consideration the statements made by 4 witnesses against the petitioner's anti social and criminal activities. The witnesses have stated that the petitioner was a head strong person and was engaged in the business of manufacture and sale of unauthorised liquor, has been beating witnesses treating them to be police informers. He has been taking commodities from the traders without paying the charges, has also been beating vehicle owners by dragging them out of the vehicle. Provisions of S.9(2) of the Act has been invoked against the witnesses for reasons of security as the witnesses have requested that their identity be kept secret. The detaining authority has mentioned that the petitioner has no respect for the law and in order to prevent him from continuing his anti social activities, it was necessary to pass the detention order. Accordingly the detention order was passed.

4. The detention order has been challenged on more than one grounds. But the learned counsel for the petitioner has kept her arguments confined to the question that even if the allegations and materials against the petitioner are taken to be correct on its face value, it can not be said that a case of breach of public order is made out. At the most it is a case of breach of law and order.

5. For the reasons given in the judgment dated 4-10-96 in Special Civil Application No.3879/96 it is found that the allegations and materials, on the basis of which the detention order has been passed, do not constitute a case of breach of public order and it is at the most a case of breach of law and order. The detention order, therefore, can not be sustained in the eye of law.

6. Accordingly this Special Civil Application is allowed and the impugned detention order dated 30-4-96

passed by the District Magistrate, Jamnagar is hereby quashed and set aside and the petitioner's detention is declared to be illegal. The respondents are directed to release the petitioner and set him at liberty forthwith, if not required in any other case. Rule is made absolute.